IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

ORDER

(1) S.B. Civil Writ Petition No.2217/2004

Door Sanchar Vibhag through its Chief Gemeral Manager Doorsanchar, Jaipur & ors. vs. Chaturbhuj

(2) S.B. Civil Writ Petition No.2218/2004

Door Sanchar Vibhag through its Chief General Manager Doorsanchar, Jaipur & ors. vs. Laxman SinghLakhawat

(3) S.B. Civil Writ Petition No.2220/2004

Door Sanchar Vibhag through its Chief General Manager Doorsanchar Jaipur & ors. vs. Karnidan Lakhawat

(4) S.B. Civil Writ Petition No.2221/2004

Door Sanchar Vibhag through its Chief General Manager Doorsanchar, Jaipur & ors. vs. Benidan Lakhawat

(5) S.B. Civil Writ Petition No.2422/2004

Door Sanchar Vibhag through its Chief General Manager Doorsanchar, Jaipur & ors. vs. Shivdutt Tiwari

Under Article 226 of the Constitution of India.

Date of Order: February 25th , 2005

PRESENT

HON'BLE MR. PRAKASH TATIA,J.

Mr. Vineet Kumar Mathur for the petitioners.
Mr. G.R. Punia, for the respondents.

BY THE COURT:

REPORTABLE

These writ petitions have been filed by the petitioners against the order dated 9.4.2004 passed by the permanent Lok Adalat, Merta by which the permanent Lok Adalat directed the petitioners to provide telephone connections to the complainant-non-petitioners, who submitted their complaint before the permanent Lok Adalat alleging that the petitioners are not providing telephone connections to the non-petitioners malafidely despite the fact that 28 consumers have already deposited the amount as demanded by the demand notices issued to the complainant-non-petitioners.

Brief facts of the case are that non-petitioner-complainants submitted complaint before the permanent Lok Adalat that the petitioners issued the demand notices for giving telephone connections and in pursuance of that the complainants deposited the requisite amount of Rs.500/- in the year 2001. The petitioners can provide telephone connections to the complainants without any delay but because of ulterior motive, instead of providing the telephone

connections to the complainants, the officers of the petitioners have given connections to the persons of the distant villages.

The reply was filed on behalf of the petitioners before the permanent Lok Adalat stating therein that the complainants' village is 5.3 kms. away from the telephone exchange which is situated in the village Dodiyan and in view of the current instructions, the telephone connections by underground cable cannot be given beyond 2.5 kms. from the telephone exchange, however, the petitioners are ready to give the WLL/CDMA/CORRDECT connections. It is also submitted that at present, the petitioner have no cable with them as the cable is not provided by the Circle. It is also submitted that in case the petitioner will have to lay down the cable from the village Dodiyan to village Tehla then it will cost about Rs.7,00,000/-. In sum and substance, according to the petitioners, the connections were not given to the complainants as the distance of the village from the telephone exchange is more than 5.3. kms. and the cable was not available with the department and it would cost Rs.7,00,000/-. The permanent Lok Adalat considered the facts in detail in its order dated 9.4.2004 and held that the department failed to produce any document to prove that village Tehla is 5.3 kms. away from the village Dodiyan where the telephone exchange is situated, whereas the complainants placed on record the certificate of

the Sarpanch of Gram Panchayat evidencing that the distance between the two villages is 5 kms. only. It is also observed that even if it is accepted that the distance between the two villages as alleged by the petitioners is correct then it is 5.3 kms. which is only 0.3 km. more than the limit fixed by the petitioners-department for giving the telephone connections. The permanent Lok Adalat also observed that when the BSNL is claiming that it has provided the telephone connections in all the villages then the plea of the BSNL that the telephone connections cannot be provided to the non-petitioner-complainants, appears to be a false plea. The permanent Lok Adalat also observed that the officers of the petitioners on 25.3.2004 refused to consider the case of giving telephone connections to the non-petitioner-complainants merely on the ground that they submitted the complaint before the permanent Lok Adalat.

According to the learned counsel for the petitioners, the petitioners-department is ready to give WLL connections to the non-petitioner-complainants, however, he admitted that it will cost more to the non-petitioner-complainants as per call charges are slightly higher in the case of WLL connection. It is also submitted that the petitioners can give telephone connections on the basis of feasibility and when the decision has been taken for not giving connections by laying down

underground cable beyond 5 kms. then the permanent Lok Adalat should not have directed the petitioners to provide telephone connections to the complainant-non-petitioners whose houses are situated more than 5 kms away from the telephone exchange. It is also submitted that for procuring cable, the department is required to follow the procedure of inviting the tenders and looking to the distance of the village from the telephone exchange, it will not be feasible to lay down the cable. It is also submitted that the petitioners-department is ready to return the amount which was deposited by the complainants with interest, instead of giving any telephone connection to the complainant, if they do not wish to have the WLL connections.

The learned counsel for the non-petitioners vehemently submitted that the stand taken by the petitioners for denying the telephone connections is nothing but with ulterior motive only which is clear from the facts that the petitioners themselves gave connections to the residents of village Surpura which is situated 6 kms. away from the telephone exchange, which is also clear from the certificate placed on record by the non-petitioners as Annexture-R/3. It is also submitted that the complainant-non-petitioners came to know that the order to provide the connections within 2.5. kms. as alleged by the petitioners itself has been changed and though the non-petitioners-complainants could not

obtain the copy of the said order and they are relying upon news item published in one daily news-paper. It is also submitted that the WLL (wire in Local Loop) telephone can function only where the electricity is available because of the reason that WLL instrument runs only on battery which requires frequent charging. It is also submitted that the complainants are residents of a small village and the signals are too weak for WLL connections, therefore, no purpose will be served by getting the WLL connections as it will not function properly because of the weak signals and because of irregular electricity supply and because of the reason that it is also costly one. The complainant-non-petitioners also placed on record the copy of one reply which was filed by them before the permanent Lok Adalat wherein they have alleged that the telephone connections was denied to the complainant-non-petitioners on the ground of distance of 5 kms. from the telephone exchange but telephone connections have been given to the 22 villagers of Surpura in one day, though the village Surpura is 6 kms. away from the telephone exchange.

The telephone connections is not a luxury but it is a necessity now a days. Assuming for the sake of argument that the distance between two villages is 5.3 kms. as alleged by the petitioners and the connections can be given upto the 5 ks. only from the telephone

exchange, even then it will make difference of about 300 miters only. There appears to be no rebuttal that village of Surpura having distance of 6 kms. from the telephone exchange, have been given telephone connections by providing underground cable and the same is being denied to the complainant-non-petitioners. It is also unfortunate that the petitioners have taken the stand that the telephone connections also cannot be provided to the complainant-non-petitioners as the cable is not provided by the "Circle", which is the office under the petitioners themselves. Even as per the petitioners, the land line connections by laying down underground cable could have been provided upto the distance of 5 kms but in this case they have raised objection that it will cost Rs.7,00,000/-. The stand of the petitioners is that had it been within the distance of 5 kms., the petitioners would have provided the land line connections to the non-petitioner-complainant by laying down the same cable.

The learned counsel for the petitioners tried to submit that the department works in a planned way and when the department has decided not to provide the land line connections to the villages and decided to provide the WLL connections then in case, the complainant consumers do not want to have the WLL connections, they may take back their money with interest. Such a plea is not available to the BSNL

who is Union of India undertaking and claiming that they will connect the entire India with telephone facilities. The BSNL cannot force the consumers to take WLL connections in the area where they have decided to provide land line connections. It is not the case of the petitioners that they have decided not to provide land line connections in one village and that is village Tehla. The petitioners are providing the land line connections to other villages situated nearby the telephone exchange, is not in dispute, therefore, the petitioners now have no right to say that they have isolated the village Tehla in the matter of giving land line connections.

It was also submitted by the learned counsel for the petitioners that the cable was not available, therefore, the connections were not given to the complainant-non-petitioners. Such a plea deserves to be rejected summarily because of the simple reason that the petitioner, if has no control over its own wings, may be Circle or Division etc., such cannot be a plea which can be looked into by the court and before taking such a plea, the department itself should have thought twice. Instead of making corrections in their own affairs, the petitioners want to put burden upon the villagers by demanding more money for the telephone call, to the extent of more charge for every call.

In view of the above, I do not find any merit in the writ petition.

The permanent Lok Adalat has considered all the aspects of the matter and rightly issued directions to the petitioners for providing land line connections to the complainant-non-petitioners.

All the writ petitions filed by the petitioners are, therefore, dismissed.

(PRAKASH TATIA),J.

mlt.